

May 15, 2017

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Comments of Media-Com, Inc. in RM-11786

Dear Ms. Dortch:

Media-Com, Inc. ("Media-Com") pursuant to Public Notice Report No. 3074 (released April 18, 2017) submits these Comments on the above-captioned rule making proposal filed by Aztec Capital Partners, Inc. ("Aztec").

The petition seeks a rebalancing of the standard applied to determine whether an FM translator causes actual interference to an authorized and operating FM broadcast station. While there is merit to the idea of developing a useful objective standard, the Aztec petition unfairly and pejoratively overgeneralizes the situation by characterizing full-power FM stations that object to translator interference as distant radio stations found outside the local radio market, citing the "Flagstaff situation" and implying that it is representative as the normal case. In fact, a typical situation involves a station licensed to a larger market bedroom community where the station has a history of providing a useful service to a substantial portion of the community's residents who live in the market or so close that they listen on their daily commute to and from work.

At best, it is misleading to characterize all full-power stations as "distant" or bad actors "fostering" the filing of complaints "far outside" their community of license. Where a station in a bedroom community is truly offering substantial service to its residents and others in the surrounding area and has been doing so for a significant period of time, a new translator for an existing AM station should not be allowed to defeat or supplant its service or destroy the investment in service and capital that has been made to provide it.

Aztec proposes to decrease the protection afforded full service FM stations by discarding valid listener interference complaints and limiting them to locations within its 60 dBu service contour. The petition claims it would not change the secondary status of FM translators, but that conclusion seems not to follow from the proposed change. Rather, allowing an FM translator to interfere with reception of a licensed FM service, has the effect of elevating the FM translator to primary status no matter how you cast it. The local radio listener in the primary station's reception area beyond the 60 dBu will not be protected and such a rule ignores the reality of urban and suburban growth over the last 30 or 40 years. It would amount to an artificial and

arbitrary distinction that cannot be correlated to the protection local radio listeners have come to expect.

Aztec relies on Section 307(b) of the Communications Act for support, stating that FM stations are licensed to serve only the discreet service area encompassed by the FM station's protected contour. We take issue with that statement. The service contour concept was designed as an allocation methodology between full service licensed broadcasters, not as a service boundary definition against secondary services. Section 307(b) merely requires a fair, efficient and equitable distribution of radio services among the states and communities. It is then necessary to decide what is fair, efficient and equitable and that decision cannot always be limited by the later adopted generalized prediction methodology defining a service grade contour.

Furthermore, it is unfair to both characterize any station that is serving listeners beyond its service grade 1 mV/m contour as a distant "weak signal", and to imply that all fill-in FM translators uniformly provide a new service to tens of thousands of local listeners. A look at the history of the concept, however, may lead us to a reasonable objective standard. The 1957 version of Section 73.315, (then Section 3.315) states that signals as low as 20 μ V/m (the equivalent of a 26 dBu signal) may provide service in the rural areas. Media-Com suggests the commission establish that signal level as the standard contour of presumed FM reception. This would adequately protect listeners of full-power FM signals and create a clear bright line standard by which full power stations and FM translators would be able to predict the viability of a proposed translator not to cause interference to listeners who have come to rely upon a licensed full-power station.

Absent such a new test, it bears emphasis that the current test is already quite strict. To demonstrate that a translator will result in interference to the reception of an existing full-service station, the station must provide at a minimum:

- (1) The name and specific address of each potentially affected listener;
- (2) A demonstration that the address of each such listener falls within the 60 dBu service contour of the proposal translator station (applicable only to proposed translators);
- (3) Evidence, such as a declaration from each of the claimed listeners, that the person, in fact, listens to the full-service station at the specified location; and
- (4) Evidence that grant of the authorization will result in interference to the reception of the "desired" station at that location.

Moreover, the Commission has held that the declarations must come from disinterested, unaffiliated, bona-fide listeners unrelated to the station.

Media-Com's Situation.

Media-Com is the licensee of WNIR (FM), Kent, Ohio, serving Northeast Ohio including Cleveland and its suburbs for over 40 years. Recently, a licensee of two Class B AM radio stations purchased and, under the 250 mile waiver policy, applied to move two FM translators to downtown Cleveland. Each translator would be on a first adjacent channel to WNIR. An interference study performed for WNIR confirmed that there would be substantial areas of

interference to WNIR reception within each translator's 60 dBu contour, where its regular listeners rely on a clear signal from WNIR. Fifty-four regular WNIR listeners submitted declarations that they regularly listen to WNIR at specific addresses throughout the Cleveland geographical area meeting the four part test stated above. WNIR also regularly serves commuters between Kent and Cleveland and focuses its programming to the informational needs for suburban communities of Cleveland. Regular listenership was further borne out by Nielsen/TapScan rating reports showing that 18% of WNIR total listening from the translator targeted geographical area.

WNIR is not a station seeking to "extend" its signal into the Cleveland metropolitan area. It is already there and relied upon by existing listeners! In contrast, the stations seeking to rebroadcast on the new FM translators are full-time Class B AM stations with nighttime signals, including one authorized at 50 kW. They would not be serving "new" listeners, just changing their band of listening. Denying these moves, on WNIR's adjacent channels will not deny service to "tens of thousands of radio listeners." A grant of them would, however, cause thousands of WNIR listeners to lose service from the station they have come to rely upon over the years.

The lessons are that gross generalizations do not work and FM stations are primary and deserve that status in order to serve everyone within their reach. The FCC's 50/50 curve prediction methodology does not account for a variety of terrain factors seriously affecting coverage and in questionable situations, the commission allows reliance on a more accurate Longley-Rice study. Unless we are to use a Longley-Rice model on every single installation, the criteria for placing the translators into service must remain unchanged or utilize the 26 dBu model suggested herein. Taking any other action is tantamount to destroying the FM band to save the AM band and that makes no sense at all.

Respectfully submitted,

Bill Klaus
Chief Executive Officer
Media-Com, Inc.